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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,983	09/22/2003	Shahid R. Chaudry	555255-012-577	1961

54120 7590 01/05/2009
RESEARCH IN MOTION
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EXAMINER

NGUYEN, TUAN HOANG

ART UNIT	PAPER NUMBER
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2618

NOTIFICATION DATE	DELIVERY MODE
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01/05/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

portfolioprossecution@rim.com

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/667,983	Applicant(s) CHAUDRY ET AL.	
	Examiner TUAN H. NGUYEN	Art Unit 2618	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-33.
- Claim(s) withdrawn from consideration: 34-43.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Tuan H. Nguyen/
Examiner
Art Unit 2618

/Quochien B Vuong/
Primary Examiner, Art Unit 2618

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's argument are not persuasive. Regarding applicant's argument filed on 12/09/2008 that Misra et al. (U.S. PUB. 2004/0022209 hereinafter, "Misra") in view of Bremer et al. (U.S. PAT. 7,272,215 hereinafter "Bremer") references cited by Examiner does not teach or suggest "the action in the wireless network as opposed to the mobile station, the described action (i.e. the rejection of a voice call attempt) is actually the opposite of that which is claimed. Further, in paragraph [0009] of Mishra, it is taught that a Mobile Switching Center (MSC) sets up a packet data session with a mobile station for data services. However, what is claimed is the receipt of a voice call request for initiating a voice call - not a data service - for the mobile device." (applicant's argument page 11). The Examiner respectfully disagrees with the Applicant arguments. After careful reviewed the claims limitations, the Examiner can not find claims limitations "the rejection of a voice call attempt" as Applicant's argues on page 11. The Applicant also argues that the Bremer reference does not teach or suggest "the tearing down of a radio traffic channel by any mobile device." (applicant's argument page 12). The Examiner respectfully disagrees with the Applicant arguments. The Applicant should refer to Bremer reference col. 13 lines 38-47 whereas the Examiner interprets the limitation "the tearing down of a radio traffic channel by any mobile device.". Further, in response to applicant's remarks on page 13 that "there is no adequate reason why one ordinarily skilled in the art would have modified the teachings of Mishra with the teachings of Bremer as the Examiner fashions". The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the references cited by the Examiner teaching an end user may decide to halt (read on "torn down") or significantly reduce digital subscriber line data communications to answer an incoming call from a phone number associated with a family member. However, an incoming phone call with an unknown calling line ID, which might be associated with a telemarketer, may not cause the end user to halt or diminish digital subscriber line data communications by answering the incoming call (col. 13 lines 40-47). Therefore, the rejection of claims 1-33 are maintain.